

AMENDED IN SENATE AUGUST 22, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN SENATE JUNE 28, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 28, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1319**

**Introduced by Assembly Member Butler**

(Principal coauthor: Senator Pavley)

**(Coauthors: Assembly Members Ammiano, Blumenfield, Bradford, Brownley, Campos, Davis, Dickinson, Eng, Fong, Gatto, Huffman, Lara, Bonnie Lowenthal, Ma, Skinner, and Williams)**

(Coauthors: Senators Corbett, De León, and Liu)

February 18, 2011

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An act to add Chapter 12 (commencing with Section 108940) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, as amended, Butler. Product safety: bisphenol A.

Existing law, part of the hazardous waste control law, requires the Department of Toxic Substances Control to adopt regulations to establish a process by which chemicals or chemical ingredients in products may be identified and prioritized for consideration as being chemicals of concern and to adopt regulations to establish a process by which chemicals of concern may be evaluated. The department is prohibited

from duplicating or adopting conflicting regulations for regulated product categories. A violation of the hazardous waste control law is a crime.

The bill would enact the Toxin-Free Infants and Toddlers Act, which would, except as specified, prohibit, on and after July 1, 2013, the manufacture, sale, or distribution in commerce of any bottle or cup that contains bisphenol A, at a detectable level above 0.1 parts per billion (ppb), if the bottle or cup is designed or intended to be filled with any liquid, food, or beverage intended primarily for consumption by ~~infants or~~ children 3 years of age or younger. This prohibition would ~~cease to be implemented for an item~~ *not apply to a product subject to a regulatory response by the department*, on the date that a prescribed notice is posted regarding the department’s adoption of ~~related regulations~~ *the regulatory response*. The bill would also require manufacturers to use the least toxic alternative when replacing bisphenol A in containers in accordance with this bill.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Toxin-Free Infants and Toddlers Act.
- 3 ~~SEC. 2. The Legislature finds and declares all of the following:~~
- 4 ~~(a) The purpose of this act is to ensure that children are not~~
- 5 ~~exposed to harmful toxins.~~
- 6 ~~(b) Bisphenol A (BPA) was created as a synthetic sex hormone.~~
- 7 ~~Today it is widely used in certain kinds of plastics and epoxy~~
- 8 ~~resins, including those commonly found in baby bottles and infant~~
- 9 ~~formula cans.~~
- 10 ~~(c) Research by the federal Centers for Disease Control and~~
- 11 ~~Prevention has found that 93 percent of Americans have BPA in~~
- 12 ~~their bodies, and children have higher levels than adults.~~
- 13 ~~(d) According to the National Institutes of Health, diet is the~~
- 14 ~~main way people are exposed to BPA, due to leaching of the~~
- 15 ~~chemical from containers into food and drink.~~
- 16 ~~(e) The United States Food and Drug Administration has~~
- 17 ~~measured BPA in canned infant formula at levels ranging from~~
- 18 ~~0.1 parts per billion (ppb) to 13.2 ppb.~~

1 ~~(f) The United States Geological Service has measured BPA in~~  
2 ~~wastewater dominated at levels up to 12 ppb. The agency's~~  
3 ~~detection limit for BPA was 0.09 ppb.~~

4 ~~(g) BPA is a known hormone disruptor. The National Institutes~~  
5 ~~of Health is concerned that BPA exposure in children may lead to~~  
6 ~~problems with brain development, behavior, early puberty, breast~~  
7 ~~cancer, and prostate cancer. New research has also suggested that~~  
8 ~~BPA may interfere with metabolism and lead to obesity, heart~~  
9 ~~disease, and diabetes in humans.~~

10 ~~(h) Out of concern for children's safety, Canada has banned the~~  
11 ~~use of BPA in baby bottles and is restricting its use in infant~~  
12 ~~formula cans.~~

13 ~~(i) Many companies have phased out BPA from their products~~  
14 ~~or removed BPA-containing products from their store shelves or~~  
15 ~~both.~~

16 ~~(j) It is in the best interest of California to significantly reduce~~  
17 ~~infants' and toddlers' exposure to BPA as soon as possible, and~~  
18 ~~to ultimately eliminate all exposure.~~

19 ~~(k) California's Green Chemistry Initiative will not come to~~  
20 ~~fruition soon enough to protect the 550,000 babies born in~~  
21 ~~California each year from the unnecessary health risk posed by~~  
22 ~~BPA.~~

23 ~~SEC. 3.~~

24 ~~SEC. 2. Chapter 12 (commencing with Section 108940) is~~  
25 ~~added to Part 3 of Division 104 of the Health and Safety Code, to~~  
26 ~~read:~~

27  
28 CHAPTER 12. BISPHENOL A  
29

30 108940. (a) On and after July 1, 2013, no person shall  
31 manufacture, sell, or distribute in commerce any bottle or cup that  
32 contains bisphenol A, at a detectable level above 0.1 parts per  
33 billion (ppb), if the bottle or cup is designed or intended to be filled  
34 with any liquid, food, or beverage intended primarily for  
35 consumption from that bottle or cup by ~~infants or~~ children three  
36 years of age or younger.

37 (b) Subdivision (a) shall not apply to medical devices, as defined  
38 in Section 109920, or to food and beverage containers designed  
39 or intended primarily to contain liquid, food, or beverages for  
40 consumption by the general population.

1 (c) Notwithstanding subdivision (a), if the Department of Toxic  
 2 Substances Control adopts a regulatory response described in  
 3 Section 25253 regarding the use of bisphenol A in ~~an item a~~  
 4 *product* that is ~~prohibited by this section, this section shall cease~~  
 5 ~~to be implemented with respect to that item upon the date that the~~  
 6 *prohibited by this section, the prohibition of this section shall not*  
 7 *apply to that product upon the date that the* department posts a  
 8 notice on its Internet Web site that it has adopted the response.

9 (d) Notwithstanding subdivisions (b) and (c) of Section 25257.1,  
 10 this section shall not be construed to prohibit or restrict the  
 11 authority of the Department of Toxic Substances Control to ~~adopt~~  
 12 ~~regulations to~~ *prioritize or take action on any products containing*  
 13 *bisphenol A in order to* limit exposure to or reduce the level of  
 14 hazard posed by bisphenol A.

15 108941. (a) Manufacturers shall use the least toxic alternative  
 16 when replacing bisphenol A in containers in accordance with this  
 17 chapter.

18 (b) Manufacturers shall not replace bisphenol A, pursuant to  
 19 this chapter, with ~~carcinogens rated~~ *chemicals classified* by the  
 20 United States Environmental Protection Agency as carcinogenic  
 21 to humans, likely to be carcinogenic to humans, or *for which there*  
 22 *is* suggestive evidence of carcinogenic potential, or ~~known to~~  
 23 *identified* by the state to cause cancer as listed in the Safe Drinking  
 24 Water and Toxic Enforcement Act of 1986 (Chapter 6.6  
 25 (commencing with Section 25249.5) of Division 20) list of  
 26 chemicals known to cause cancer or reproductive toxicity.

27 (c) Manufacturers shall not replace bisphenol A, pursuant to  
 28 this chapter, with reproductive toxicants that cause birth defects,  
 29 reproductive harm, or developmental harm as identified by the  
 30 United States Environmental Protection Agency or listed in the  
 31 Safe Drinking Water and Toxic Enforcement Act of 1986 (Chapter  
 32 6.6 (commencing with Section 25249.5) of Division 20) list of  
 33 chemicals known to cause cancer or reproductive toxicity.